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Judge Lasnik

OCT 30 2018

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CLERK U.S. DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
BY DEPUTY
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7 UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 UNITED STATES OF AMERICA,

10 NO. CR18- 255RSL

11 Plaintiff

12 PLEA AGREEMENT

13 v.

14 MARC SAPATIN,

15 Defendant.

16 The United States of America, by and through Annette L. Hayes, United States
17 Attorney for the Western District of Washington, Andrew C. Friedman and Francis
18 Franze-Nakamura, Assistant United States Attorneys for said District, and Anthony
19 Teelucksingh, Trial Attorney with the United States Department of Justice Computer
20 Crime & Intellectual Property Section, and MARC SAPATIN and his attorney,
21 Christopher R. Black, enter into the following Agreement, pursuant to Federal Rule of
22 Criminal Procedure 11(c)(1)(A):

23 1. **Waiver of Indictment.** Defendant, having been advised of the right to be
24 charged by Indictment, agrees to waive that right and enter a plea of guilty to the charges
25 brought by the United States Attorney in an Information.

26 2. **The Charges.** Defendant, having been advised of the right to have this
27 matter tried before a jury, agrees to waive that right and enter pleas of guilty to the
28 following charges contained in the Information.

1 a. Conspiracy, as charged in Count 1, in violation of Title 18, United
2 States Code, Section 371;

3 b. Conspiracy to Commit Money Laundering, as charged in Count 2, in
4 violation of Title 18, United States Code, Section 1956(h).

5 By entering these pleas of guilty, Defendant hereby waives all objections to the form of
6 the charging document. Defendant further understands that, before entering his guilty
7 pleas, he will be placed under oath. Any statement given by Defendant under oath may
8 be used by the United States in a prosecution for perjury or false statement.

9 3. **Element of the Offenses.** The elements of the offenses to which
10 Defendant is pleading guilty are as follows:

11 a. The elements of Conspiracy, as charged in Count 1, in violation of
12 Title 18, United States Code, Section 371, are as follows:

13 First, beginning in or about April 2012 and ending in our about September 2017,
14 there was an agreement between two or more persons to commit a crime;

15 Second, the Defendant became a member of the conspiracy knowing of at least
16 one of its objects and intending to help accomplish it; and

17 Third, one of the members of the conspiracy performed at least one overt act.

18 The conspiracy alleged is a conspiracy to commit Wire Fraud and
19 Computer Fraud and Abuse.

20 The elements of Wire Fraud are as follows:

21 First, the Defendant knowingly devised a scheme or plan to defraud, or to obtain
22 money or property by means of false or fraudulent pretenses, representations, or
23 promises;

24 Second, the statements made or facts omitted as part of the scheme were material;
25 that is, they had a natural tendency to influence or were capable of influencing a person
26 to part with money or property;

27 Third, the Defendant acted with intent to defraud; that is the intent to deceive or
28 cheat; and

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1 Fourth, the Defendant transmitted or caused to be transmitted a wire in interstate
2 or foreign commerce to carry out or attempt to carry out an essential part of the scheme.

3 The elements of Computer Fraud and Abuse are as follows:

4 First, the Defendant knowingly caused the transmission of a program, code,
5 command, or information to a computer without authorization;

6 Second, as a result of the transmission, the Defendant intentionally impaired the
7 integrity or availability of data, a program, a system, or information;

8 Third, the computer was used in or affected interstate or foreign commerce or
9 communication; and

10 Fourth, during any one-year period, the loss was at least \$5,000, or 10 or more
11 computers were affected.

12 b. The elements of Conspiracy to Commit Money Laundering, as charged in
13 Count 2, in violation of Title 18, United States Code, Section 1956(h), are as follows:

14 First, beginning in or about April 2012 and ending in our about September 2017,
15 there was an agreement between two or more persons to commit the crime of money
16 laundering; and

17 Second, the Defendant became a member of the conspiracy knowing of its object
18 and intending to help accomplish it.

19 The elements of Money Laundering are as follows:

20 First, the Defendant conducted a financial transaction that involved the proceeds
21 of wire fraud or computer fraud and abuse;

22 Second, the Defendant knew that the money represented the proceeds of wire
23 fraud or computer fraud and abuse; and

24 Third, the Defendant knew that the transaction was designed in whole or in part to
25 conceal or disguise the nature or source of the proceeds of the wire fraud or computer
26 fraud and abuse.

27 4. **The Penalties.** Defendant understands that the statutory penalties
28 applicable to the offenses to which he is pleading guilty are as follows:

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1 a. For the offense of Conspiracy, as charged in Count 1: a maximum
2 term of imprisonment of up to five years, a fine of up to \$250,000, a period of
3 supervision following release from prison of up to three years, and a mandatory special
4 assessment of \$100. If a probationary sentence is imposed, the probation period can be
5 for up to five years. Defendant agrees that the special assessment shall be paid at or
6 before the time of sentencing.

7 b. For the offense of Conspiracy to Commit Money Laundering, as
8 charged in Count 2: a maximum term of imprisonment of up to twenty years, a fine of up
9 to \$500,000 or twice the amount of money involved in the conspiracy, whichever is
10 greater, a period of supervision following release from prison of up to three years, and a
11 mandatory special assessment of \$100. If a probationary sentence is imposed, the
12 probation period can be for up to five years. Defendant agrees that the special assessment
13 shall be paid at or before the time of sentencing.

14 Defendant understands that supervised release is a period of time following
15 imprisonment during which he will be subject to certain restrictive conditions and
16 requirements. Defendant further understands that, if supervised release is imposed and he
17 violates one or more of the conditions or requirements, Defendant could be returned to
18 prison for all or part of the term of supervised release that was originally imposed. This
19 could result in Defendant's serving a total term of imprisonment greater than the statutory
20 maximum stated above.

21 Defendant understands that, as a part of any sentence, in addition to any term of
22 imprisonment and/or fine that is imposed, the Court may order Defendant to pay
23 restitution to any victim of the offenses, as required by law. Defendant further
24 understands that the consequences of pleading guilty may include the forfeiture of certain
25 property, either as a part of the sentence imposed by the Court, or as a result of civil
26 judicial or administrative process.

1 Defendant agrees that any monetary penalty the Court imposes, including the
2 special assessment, fine, costs, or restitution, is due and payable immediately and further
3 agrees to submit a completed Financial Statement of Debtor form as requested by the
4 United States Attorney's Office.

5. **Rights Waived by Pleading Guilty.** Defendant understands that by
6 pleading guilty, he knowingly and voluntarily waives the following rights:

- 7 a. The right to plead not guilty and to persist in a plea of not guilty;
- 8 b. The right to a speedy and public trial before a jury of his peers;
- 9 c. The right to the effective assistance of counsel at trial, including, if
10 Defendant could not afford an attorney, the right to have the Court
11 appoint one for him;
- 12 d. The right to be presumed innocent until guilt has been established
13 beyond a reasonable doubt at trial;
- 14 e. The right to confront and cross-examine witnesses against Defendant
15 at trial;
- 16 f. The right to compel or subpoena witnesses to appear on his behalf at
17 trial;
- 18 g. The right to testify or to remain silent at trial, at which trial such
19 silence could not be used against Defendant; and
- 20 h. The right to appeal a finding of guilt or any pretrial rulings.

21 6. **Ultimate Sentence.** Defendant acknowledges that no one has promised or
22 guaranteed what sentence the Court will impose.

23 7. **Restitution.** The parties agree that they will recommend that the Court
24 apportion liability for restitution owed to AT&T Mobility between Defendant and the
25 defendants charged in related cases. Defendant agrees to pay restitution in the
26 apportioned amount of \$441,500 (which shall not be joint and several with any other
27 defendant). Said amount shall be due and payable immediately and shall be paid in
28

1 accordance with a schedule of payments as proposed by the United States Probation
2 Office and ordered by the Court.

3 **8. Forfeiture of Assets.** Defendant understands that the forfeiture of property
4 is part of the sentence that must be imposed in this case. Defendant agrees to forfeit to
5 the United States immediately all of his right, title, and interest in any and all property,
6 real or personal, that constitutes or is derived from proceeds traceable to the charges of
7 Conspiracy and/or Conspiracy to Commit Money Laundering to which Defendant is
8 pleading guilty. All such property is forfeitable pursuant to Title 18, United States Code,
9 Section 981(a)(1)(C), Title 28, United States Code, Section 2461(c), Title 18, United
10 States Code, Section 982(a)(2)(B), Title 18, United States Code, Section 1030(i), and
11 Title 18, United States Code, Section 982(a)(1), and includes, but is not limited to:

12 a. a sum of money in the amount of \$441,500, representing a portion of
13 the proceeds Defendant obtained from the offenses, *subject to any necessary adjustments*
14 The Defendant understands and acknowledges this forfeited sum of money is *under*
15 separate and distinct from the restitution that is ordered in this case. *18 U.S.C.
§ 981(a)(2)(C)*

16 Defendant agrees to fully assist the United States in the forfeiture of this property
17 and to take whatever steps are necessary to pass clear title to the United States, including
18 but not limited to: surrendering title and executing any documents necessary to effect
19 forfeiture; assisting in bringing any property located outside the United States within the
20 jurisdiction of the United States; and taking whatever steps are necessary to ensure that
21 property subject to forfeiture is not sold, disbursed, wasted, hidden, or otherwise made
22 unavailable for forfeiture. Defendant agrees not to file a claim to any such property in any
23 federal forfeiture proceeding, administrative or judicial, that may be initiated.

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24 The United States reserves its right to proceed against any remaining property not
25 identified in this Plea Agreement, including any property in which Defendant has any
26 interest or control, if that property constitutes or is traceable to proceeds of the
27 Conspiracy and/or Conspiracy to Commit Money Laundering.

28

1 9. **Statement of Facts.** The parties agree on the following facts. Defendant
2 admits he is guilty of the charged offenses:

3 From November 2010 to approximately October 2013,
4 Defendant, MARC SAPATIN, was an employee of AT&T.
5 Defendant worked as a Customer Support Specialist in
6 AT&T's Customer Care call center in Bothell, Washington,
7 which served customers from throughout the United States.
8 AT&T issued Defendant credentials to log into both
9 Defendant's computer workstation and a variety of
10 proprietary programs on that workstation. Defendant
11 received training from AT&T on network security. As a
12 result, Defendant knew that only authorized people were
13 allowed to access AT&T's internal company network.
14 Defendant also knew that his login credentials were for his
15 use only, and that AT&T would assume that only Defendant
16 was using his login credentials to access his workstation and
17 the programs on that workstation.

18 One of the programs on Defendant's workstation was a
19 program through which Defendant could "unlock" phones for
20 eligible AT&T customers. Unlocking a phone allows the
21 phone to be used on the cellular networks of other service
22 providers. Defendant's job duties required him to be familiar
23 with the products and services offered by AT&T. As a result,
24 Defendant knew that AT&T offered to sell phones either at a
25 discount or under an installment plan if the customer agreed
26 to enter into a long-term service contract with AT&T.

27 As part of Defendant's job duties at AT&T, Defendant
28 unlocked phones when customers met certain criteria set by
AT&T. Based on the training Defendant received at AT&T,
Defendant understood that he was not authorized to unlock
phones when those criteria had not been met. Defendant
further understood that every time he used Defendant's
network credentials to submit an unlocking request, he was
representing to AT&T that he had reviewed the eligibility
criteria and had determined that the customer in question
satisfied that criteria. Defendant also understood that
unlocking a phone when the eligibility criteria were not

1 satisfied could cause harm to AT&T by depriving it of future
 2 payments from the customer if that customer chose to leave
 3 AT&T's cellular network.

4 In approximately June or July of 2012, Defendant was
 5 contacted by an individual named "Frank" through Facebook.
 6 (Defendant now understands that the man whom he knew as
 7 "Frank" is, in fact, Muhammad Fahd.) "Frank" used a
 8 Facebook account listed under the name "Frank Zhang."
 9 "Frank" told Defendant that he had spoken to Defendant
 10 before when he had called AT&T to unlock his phone.
 11 "Frank" told Defendant that Defendant had denied his unlock
 12 request because he did not meet the eligibility criteria set by
 13 AT&T. "Frank" indicated that, after the call, he had looked
 14 Defendant's name up on Facebook and had found
 15 Defendant's Facebook page.

16 "Frank" offered Defendant a lot of money if Defendant
 17 would help him secretly unlock cell phones at AT&T.
 18 "Frank" gave Defendant detailed instructions on how to
 19 communicate with him. At the outset, "Frank" told
 20 Defendant to set up a new email account and to buy a pre-
 21 paid cell-phone so they could have private communications.
 22 Defendant followed "Frank's" instructions and set up three
 23 email accounts, tyronejeromeskee@gmail.com,
 24 tropoja786@gmail.com, and tropoja786@yahoo.com.
 25 Defendant used these accounts to communicate with
 26 "Frank's" email accounts, which included
 27 unlockoutlet@gmail.com and unlockoutlet@ymail.com. On
 28 August 14, 2012, "Frank" used the account
unlockoutlet@gmail.com to send Defendant a picture of
 himself.

29 By August 2012, Defendant was regularly unlocking
 30 phones for "Frank." "Frank" emailed Defendant lists of
 31 international mobile equipment identity numbers ("IMEIs")
 32 for cellular phones for Defendant to unlock. Most or all of
 33 "Frank's" emails travelled from outside the United States to
 34 the State of Washington. After "Frank" sent Defendant a list
 35 of IMEIs to unlock, Defendant sometimes went to a computer
 36 in AT&T's breakroom, logged into AT&T's unlocking

1 program using his network credentials, and entered the IMEIs
2 from "Frank's" list and unlocked them. Defendant then
3 emailed "Frank" with a report that showed which IMEIs had
4 been unlocked successfully. Defendant used the computer in
5 the break room to avoid attracting attention to his
6 workstation. Defendant understood that, when he used his
7 network credentials to unlock the IMEIs "Frank" sent,
Defendant was fraudulently misrepresenting to AT&T that
these IMEIs belonged to eligible customers who satisfied
AT&T unlocking criteria.

8 "Frank" directed Defendant to recruit other AT&T
9 employees to help with the unauthorized unlocks. "Frank"
10 told Defendant he needed additional AT&T employees to join
11 the scheme, because he wanted someone to be available at all
12 times to expand his ability to do unauthorized unlocks.
13 "Frank" said he would pay Defendant money for each person
14 Defendant recruited. Around September 2012, Defendant
successfully recruited AT&T employees K.E. and D.W. to
join the scheme

15 In the spring of 2013, AT&T implemented a new
16 unlocking system that made it more difficult to unlock IMEIs
17 for "Frank." In response, "Frank" told Defendant that he had
18 hired a software developer to custom-design malware that
19 Defendant could put on AT&T's computer system to unlock
20 phones automatically. At "Frank's" request, Defendant
21 provided confidential information to "Frank" about AT&T's
22 computer system and unlocking procedures. Among other
23 things, "Frank" had Defendant install malware on AT&T's
24 computers that captured information about AT&T's computer
system and about the network credentials of other AT&T
employees. "Frank," in turn, told Defendant that he had
provided the information to his malware developer so the
developer could tailor the malware to work on AT&T's
computers.

25 Defendant helped "Frank" test multiple versions of the
26 malware until the malware became functional in April 2013.
27 Once Defendant installed the malware, the malware had the
28 ability to use Defendant's AT&T credentials to unlock

1 phones without Defendant's direct involvement. When
 2 Defendant showed up to work, all Defendant had to do was
 3 log into his workstation and activate the malware. The
 4 malware then interacted with AT&T's computer system and
 5 performed the unauthorized unlocks in the background during
 6 the day while Defendant carried out his legitimate job
 7 responsibilities.

8 At the start of the scheme in 2012, "Frank" told
 9 Defendant to set up a fake business and a bank account for
 10 that business to receive payments from him. "Frank" told
 11 Defendant to create a fake invoice for every deposit that was
 12 made into the fake business' bank account to create the
 13 appearance that the money was payment for a genuine service
 14 that Defendant's company provided. "Frank" told Defendant
 15 to issue these fake invoices to "SwiftUnlocks."

16 Pursuant to "Frank's" instructions, Defendant set up a
 17 fake company called Sapatin Enterprises and a bank account
 18 in the name Marc C. Sapatin dba Sapatin Enterprises for the
 19 business. Starting in August 2012, Defendant issued fake
 20 invoices for supposed technical services to make the
 21 payments Defendant received from "Frank" appear to be
 22 legitimate income. In reality, Defendant's company never
 23 provided any technical services to "SwiftUnlocks" or any
 24 other customer. From approximately August 2012 to October 2013
 25 September, Defendant was paid \$428,500 through his fake
 26 business as payment for his participation in the illegal
 27 unlocking scheme.

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28 In October 2013, AT&T investigators discovered the
 29 malware and that K.E. and Defendant were conducting large
 30 numbers of unauthorized unlocks. AT&T investigators and,
 31 then, law enforcement officers asked to speak with
 32 Defendant. Later, Defendant told "Frank" that law
 33 enforcement had contacted him about what had happened at
 34 AT&T. "Frank" told Defendant not to say anything to law
 35 enforcement and to provide him with updates if law
 36 enforcement contacted him again. "Frank" told Defendant
 37 that K.E. would pay if she talked to law enforcement.

1 “Frank” further told Defendant that she “[messed] with” the
 2 wrong person.

3 In October 2013, Defendant left AT&T. In the fall of
 4 2014, “Frank” contacted Defendant and requested that
 5 Defendant again help him with his scheme to unlock phones.
 6 Defendant subsequently provided “Frank” with a list of
 7 people who still worked at AT&T who might be willing to
 unlock phones for him.

8 In 2014, Defendant performed various tasks for
 9 “Frank” to help with the unlocking scheme, including
 10 assisting with a plan to have D.W., who still worked at
 11 AT&T, plug devices into AT&T’s protected computer
 12 network to give “Frank” access to the network. For example,
 13 on November 25, 2014, “Frank” sent Defendant a router by
 14 Federal Express from Dubai to Defendant’s residence in
 15 Lynnwood, Washington. Defendant then gave that router to
 16 D.W. “Frank” sent Defendant payments in return. For
 17 example, on November 12, 2014, “Frank” wired Defendant
 18 \$1,004.10 through Western Union, and, on November 13,
 19 2014, “Frank” wired Defendant \$4,052.00 through Western
 20 Union.

21 In 2015, “Frank” requested that Defendant meet him in
 22 Dubai, and Defendant agreed. On August 10, 2015,
 23 Defendant traveled from SeaTac, Washington, to Dubai to
 24 meet with “Frank.” “Frank” and a person he described as his
 25 cousin picked Defendant up at the airport. (Defendant now
 26 understands that “Frank’s” cousin was Ghulam Jiwani.)
 27 Defendant was able to recognize “Frank” easily because they
 28 had communicated by video chat.

29 “Frank,” suspiciously, asked if Defendant had come
 30 with anyone. In addition, during Defendant’s trip, “Frank”
 31 kept checking Defendant’s phone to make sure Defendant had
 32 not taken any pictures of him. “Frank” bought Defendant’s
 33 ticket, paid for Defendant’s hotel room, and gave Defendant
 34 \$8,000 as payment for work Defendant did for him in 2013. .
 35 Including the earlier payments he had received, Defendant
 36 received at least \$441,500 for his role in the scheme “Frank”

1 and Defendant discussed a plan for continuing the unlocking
 2 scheme. In particular, "Frank" asked Defendant to give D.W.
 3 instructions for how to use routers and other devices on
 4 AT&T's network to give "Frank" continued access to
 AT&T's system.

5 Defendant understands that Muhammad Fahd has been
 6 arrested in Hong Kong and is charged with committing the
 7 crimes described by Defendant as having been committed by
 8 the person Defendant knew as "Frank." Defendant has
 9 reviewed Fahd's booking photograph. Based upon
 10 Defendant's prior contacts with "Frank," Defendant
 recognizes the person arrested in Hong Kong and depicted in
 11 the booking photograph as being the person Defendant knows
 as "Frank."

12 Defendant understands that AT&T's forensic analysis
 13 shows that, between June 27, 2013, and August 27, 2013,
 14 Defendant submitted 676,509 unlock requests, many of them
 milliseconds apart. Defendant agrees that this is a reasonable
 15 estimate of the number of cellular telephones that he
 fraudulently unlocked during this two month window.
 16 Defendant understands that AT&T's forensic analysis shows
 17 that the total number of cellular telephones fraudulently
 unlocked by members of the scheme substantially exceeded
 18 1,000,000, that more than 10 AT&T computers were affected,
 and that, although AT&T estimates that its losses are in the
 19 tens of millions of dollars (but still is working to calculate its
 losses), AT&T unquestionably suffered more than \$5,000 in
 20 losses.

21 The parties agree that the Court may consider for the purpose of sentencing
 22 additional facts contained in the Presentence Report, subject to objections by the parties,
 23 as well as any facts presented by either party at sentencing.

24
 25 **10. United States Sentencing Guidelines.** Defendant understands and
 26 acknowledges that the Court must consider the sentencing range calculated under the
 27 United States Sentencing Guidelines and possible departures under the Sentencing
 28 Guidelines together with the other factors set forth in Title 18, United States Code,

1 Section 3553(a), including: (1) the nature and circumstances of the offenses; (2) the
2 history and characteristics of the defendant; (3) the need for the sentence to reflect the
3 seriousness of the offenses, to promote respect for the law, and to provide just
4 punishment for the offenses; (4) the need for the sentence to afford adequate deterrence to
5 criminal conduct; (5) the need for the sentence to protect the public from further crimes
6 of the defendant; (6) the need to provide the defendant with educational and vocational
7 training, medical care, or other correctional treatment in the most effective manner;
8 (7) the kinds of sentences available; (8) the need to provide restitution to victims; and
9 (9) the need to avoid unwarranted sentence disparity among defendants involved in
10 similar conduct who have similar records. Accordingly, Defendant understands and
11 acknowledges that:

- 12 a. The Court will determine applicable Defendant's Sentencing
13 Guidelines range at the time of sentencing;
- 14 b. After consideration of the Sentencing Guidelines and the factors in
15 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the
16 maximum term authorized by law;
- 17 c. The Court is not bound by any recommendation regarding the
18 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
19 range offered by the parties or the United States Probation Department, or by any
20 stipulations or agreements between the parties in this Plea Agreement; and
- 21 d. Defendant may not withdraw his guilty pleas solely because of the
22 sentence imposed by the Court.

23 11. **Acceptance of Responsibility.** At sentencing, if the district court
24 concludes Defendant qualifies for a downward adjustment acceptance for acceptance of
25 responsibility pursuant to USSG § 3E1.1(a) and Defendant's offense level is 16 or
26 greater, the United States will make the motion necessary to permit the district court to
27 decrease the total offense level by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b),
28 because Defendant has assisted the United States by timely notifying the United States of

1 his intention to plead guilty, thereby permitting the United States to avoid preparing for
 2 trial and permitting the Court to allocate its resources efficiently.

3 **12. Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
 4 the United States Attorney's Office for the Western District of Washington agrees not to
 5 prosecute Defendant for any additional offenses known to it as of the time of this
 6 Agreement that are based upon evidence in its possession at this time, and that arise out
 7 of the conduct giving rise to this investigation. In this regard, Defendant recognizes the
 8 United States has agreed not to prosecute all of the criminal charges the evidence
 9 establishes were committed by Defendant solely because of the promises made by
 10 Defendant in this Agreement. Defendant agrees, however, that for purposes of preparing
 11 the Presentence Report, the United States Attorney's Office will provide the United
 12 States Probation Office with evidence of all conduct committed by Defendant.

13 Defendant agrees that any charges to be dismissed before or at the time of
 14 sentencing, and any other potential charges that were discussed but were not filed, were
 15 substantially justified in light of the evidence available to the United States, were not
 16 vexatious, frivolous or taken in bad faith, and do not provide Defendant with a basis for
 17 any future claims under the "Hyde Amendment," Pub. L. No. 105-119 (1997).

18 **13. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if
 19 Defendant breaches this Plea Agreement, the United States may withdraw from this Plea
 20 Agreement and Defendant may be prosecuted for all offenses for which the United States
 21 has evidence. Defendant agrees not to oppose any steps taken by the United States to
 22 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
 23 Agreement. Defendant also agrees that if Defendant is in breach of this Plea Agreement,
 24 Defendant has waived any objection to the re-institution of any charges in the Indictment
 25 that were previously dismissed or any additional charges that had not been prosecuted.

26 Defendant further understands that if, after the date of this Plea Agreement,
 27 Defendant should engage in illegal conduct, or conduct that violates any conditions of
 28 release or the conditions of his confinement, (examples of which include, but are not

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1 limited to, obstruction of justice, failure to appear for a court proceeding, criminal
 2 conduct while pending sentencing, and false statements to law enforcement agents, the
 3 Pretrial Services Officer, Probation Officer, or Court), the United States is free under this
 4 Plea Agreement to file additional charges against Defendant or to seek a sentence that
 5 takes such conduct into consideration by requesting the Court to apply additional
 6 adjustments or enhancements in its Sentencing Guidelines calculations in order to
 7 increase the applicable advisory Guidelines range, and/or by seeking an upward departure
 8 or variance from the calculated advisory Guidelines range. Under these circumstances,
 9 the United States is free to seek such adjustments, enhancements, departures, and/or
 10 variances even if otherwise precluded by the terms of the plea agreement.

11 **14. Waiver of Appellate Rights and Rights to Collateral Attacks.**

12 Defendant acknowledges that by entering the guilty pleas required by this Plea
 13 Agreement, Defendant waives all rights to appeal from his conviction and any pretrial
 14 rulings of the court. Defendant further agrees that, provided the court imposes a custodial
 15 sentence that is within or below the Sentencing Guidelines range (or the statutory
 16 mandatory minimum, if greater than the Guidelines range) as determined by the court at
 17 the time of sentencing, Defendant waives to the full extent of the law:

18 a. Any right conferred by Title 18, United States Code, Section 3742,
 19 to challenge, on direct appeal, the sentence imposed by the court, including any fine,
 20 restitution order, probation or supervised release conditions, or forfeiture order (if
 21 applicable); and

22 b. Any right to bring a collateral attack against the conviction and
 23 sentence, including any restitution order imposed, except as it may relate to the
 24 effectiveness of legal representation; and

25 This waiver does not preclude Defendant from bringing an appropriate motion
 26 pursuant to 28 U.S.C. § 2241, to address the conditions of his confinement or the
 27 decisions of the Bureau of Prisons regarding the execution of his sentence.
 28

1 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
2 attacking (except as to effectiveness of legal representation) the conviction or sentence in
3 any way, the United States may prosecute Defendant for any counts, including those with
4 mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea
5 Agreement.

6 **15. Voluntariness of Plea.** Defendant agrees that he has entered into this Plea
7 Agreement freely and voluntarily and that no threats or promises, other than the promises
8 contained in this Plea Agreement, were made to induce Defendant to enter his pleas of
9 guilty.

10 **16. Statute of Limitations.** In the event this Agreement is not accepted by the
11 Court for any reason, or Defendant has breached any of the terms of this Plea Agreement,
12 the statute of limitations shall be deemed to have been tolled from the date of the Plea
13 Agreement to: (1) thirty (30) days following the date of non-acceptance of the Plea
14 Agreement by the Court; or (2) thirty (30) days following the date on which a breach of
15 the Plea Agreement by Defendant is discovered by the United States Attorney's Office.

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1 17. **Completeness of Agreement.** The United States and Defendant agree that,
2 except as to certain matters set forth during the plea colloquy in open Court, these terms
3 constitute the entire Plea Agreement between the parties. This Plea Agreement binds
4 only the United States Attorney's Office for the Western District of Washington. It does
5 not bind any other United States Attorney's Office or any other office or agency of the
6 United States, or any state or local prosecutor.

7 DATED: this 30th day of October, 2018.



8
9
10 MARC SAPATIN
11 Defendant



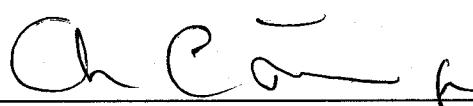
12
13 CHRISTOPHER R. BLACK
14 Attorney for Defendant



15
16 ANDREW C. FRIEDMAN
17 Assistant United States Attorney



18
19 FRANCIS FRANZE-NAKAMURA
20 Assistant United States Attorney



21
22 ANTHONY TEELUCKSINGH
23 Trial Attorney
24 Computer Crime & Intellectual Property
25 Section, U.S. Department of Justice